

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF DOLAN                    ) APPEAL NO. 07-A-2004  
KEENEY from the decision of the Board of                ) FINAL DECISION  
Equalization of Ada County for tax year 2007.         ) AND ORDER

**RESIDENTIAL PROPERTY APPEAL**

THIS MATTER came on for hearing December 6, 2007, in Boise, Idaho before Hearing Officer Travis Vanlith. Board Members Lyle R. Cobbs, Linda S. Pike and David E. Kinghorn participated in this decision. Appellant Dolan Keeney and witness Elisabeth Keeney appeared. Chief Deputy Assessor Tim Tallman and County Appraiser Rick Stolz appeared for Respondent Ada County. This appeal is taken from a decision of the Ada County Board of Equalization (BOE) denying the protest of the valuation for taxing purposes of property described as Parcel No. R1955001700.

**The issue on appeal is the market value of a residential property.**

**The decision of the Ada County Board of Equalization is affirmed.**

FINDINGS OF FACT

The assessed land value is \$105,000, the improvements' value is \$89,300, totaling \$194,300. Appellant requests the total value be reduced to \$168,000.

Subject is an improved .258 acre residential lot located in Boise, Idaho. There are two rental units on subject, built in the late 1940's. The larger unit rents for \$650 per month and the smaller unit rents for \$525 per month.

The parties disputed the combined square footage of subject's rental units. Appellant claimed the improvements were approximately 1,400 combined square feet. Respondent's records indicated a combined square footage of 1,619.

As the improvements' 2007 assessment was nearly the same as 2006, Appellant only

challenges the land value.

Appellant provided six (6) improved sales. Sale 1 involved a property with a single lot and two rental units built thereon. This property sold in August 2005 for \$148,000. The units had a combined 1,350 square feet. The lot size was unclear in the record.

Sale 2 involved a .14 acre lot with two residential units attached. The improvements were built in 1940 and the property sold in September 2005 for \$174,900. Information on the square footage of the units was vague, but Appellant estimated the improvements had approximately 1,600 combined square feet.

The property in Sale 3 sold in July 2005 for \$170,860. The property was a .13 acre lot with two residences attached. The combined square footage of the improvements was 1,918 square feet.

Sale 4 concerned a single lot with two residential improvements attached. The lot size was unclear, however, the residential units had 1,574 combined square feet. Appellant indicated this property was located near subject.

Appellant noted Sale 5 was also located near subject. It involved a single lot with two residential units built thereon. The combined square footage of the units was 1,422 square feet. The lot size was unclear, however, the property sold in July 2003 for \$127,000.

Sale 6 was located in the “North end” of Boise, which Appellant claimed was an area where property generally is more valuable. The property was a single lot with two residential units attached. The combined square footage of the units was unclear, as was the lot size. The property sold in April 2004 for \$180,000.

Appellant also presented three bare lot sales. Lot 1 was .5 acres and sold for \$40,000 in May 2005. Lot 2 was .23 acres and sold for \$70,900 in May 2005. Lot 3 was .14 acres and

sold in March 2005 for \$65,000.

Respondent presented three (3) improved sales and one bare land sale. The bare land sale involved a property in subject's immediate area. The lot was .134 acres in size and sold in April 2007 for \$102,000. No time-adjustment was made. Respondent also noted the lot was smaller in size than subject.

Respondent's improved Sale 1 concerned a .14 acre lot with two residential structures attached. The units had 1,619 combined square feet and sold in September 2006 for \$213,000. Respondent believed this property to be most comparable to subject.

Sale 2 involved a .14 acre lot with two residential units attached. The units had 1,968 combined square feet. The property sold in July 2006 for \$256,000.

Sale 3 was a .28 acre lot with a single-family dwelling attached. The property sold in March 2007 for \$270,000. Respondent noted the residence was demolished soon after purchase, and there are currently four townhouse structures built in its place. Respondent presented this sale primarily to show the high value of land in subject's area. Because the structure on the lot was demolished and townhouses were built soon after purchase, Respondent reasoned the sale indicated the property was bought for the underlying land, not as an improved residential property.

Appellant challenged Respondent's Sale 1, primarily on the basis that the larger unit contained three bedrooms, whereas subject's larger unit had only two bedrooms. Respondent's Sale 3 was also questioned where after purchase the structure was demolished and four townhouse structures were built.

Respondent made adjustments to the improved sales to account for differences in square footage, lot size, bathroom count, and other such features, compared to subject. After analyzing

subject and other sales data, Respondent argued subject was under-assessed and asked the Board to increase subject's total assessment \$30,000; to approximately \$225,000.

Respondent also calculated subject's value using the income approach. Using data from subject's area, Respondent arrived at a gross rent multiplier of 174. Applying the multiplier to subject, Respondent calculated subject's value to be \$206,190.

Respondent questioned the proximity of Appellant's sale properties to subject. Respondent pointed out the sales also occurred prior to 2006 and that the older sale prices were not time-adjusted to reflect value on the statutory lien date of January 1, 2007.

### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

For the purposes of property taxation, Idaho utilizes a market value approach as defined by Idaho Code § 63-201(10):

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing sell, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

There was disagreement concerning subject's combined square footage. Appellant believed subject was approximately 1,400 square feet, while Respondent's records indicated subject was 1,619 combined square feet.

“The value of property for purposes of taxation as determined by the assessor is

presumed to be correct; and the burden of proof is upon the taxpayer to show by [a preponderance of the evidence] that he is entitled to the relief claimed.” Board of County Comm’rs of Ada County v. Sears, Roebuck & Co., 74 Idaho 39, 46-47, 256 P.2d 526, 530 (1953).

Appellant carries the burden of proving error on the part of Respondent. Nothing was offered into evidence to support Appellant’s contention regarding subject’s combined square footage. As such, the County records are presumed correct and the Board will accept subject’s combined square footage as recorded therein.

The Idaho Supreme Court has recognized three approaches to value property for the purposes of taxation.

[T]here are three primary methods of determining market value: the cost approach, in which the value as determined by new cost or market comparison is estimated and reduced by accrued depreciation; the income approach, applicable to "income producing property" in which a capitalization rate is determined from market conditions and applied to net income from the property to determine appraised value; and the market data (comparison method) approach, in which value of the assessed property is ascertained by looking to current open market sales of similar property. *Merris v. Ada County*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979).

Respondent utilized both the market data (sales comparison) and the income approach to value subject. The income approach indicated a value of \$206,190. After using the sales comparison approach, Respondent argued subject was under-assessed and asked the Board at hearing to increase the value to approximately \$225,000.

Appellant similarly used a sales comparison approach and presented six (6) improved sales to support the proposed value of \$168,000. The sale prices ranged between \$123,000 and \$180,000 and occurred between 2003 and 2005. Lot and improvement sizes were not clearly evident for all the referenced properties, but generally included lot sizes of approximately .15

acres and improvements with a combined size of 1,500 square feet.

Appellant's bare lot sales were between .14 and .5 acres and sold during 2005 for prices between \$40,000 and \$70,900.

Respondent presented three (3) improved sales. Sales 1 and 2 involved properties with similar characteristics as subject (i.e. single lots with two residential units attached). The lot acreage and improvements' square footage were similar to subject. Sale 3 was presented to illustrate land value in subject's immediate area. As noted by Respondent, the property was likely purchased for the purpose of building townhouse structures.

The bare lot sale submitted by Respondent sold in April 2007 for \$102,000. The lot was .134 acres and located in subject's immediate area. This sale occurred was well past the relevant 2007 appraisal and assessment date and is considered untimely by this Board.

When determining market value, recent sales (prior year) involving similar property are generally considered relevant evidence of value. Adjustments to sale price should be made for differences between compared properties. While both parties submitted sales information in support of their respective positions, Appellant's sales occurred prior to 2006. Sales more than one year old are typically considered stale or untimely. An exception is present when an adjustment for date of sale (time adjustment) is made and where there is an absence of more recent sales (e.g. 2006 sales). Of concern here is that Appellant's sales do not appear to be time-adjusted to reflect value on the statutory assessment date of January 1, 2007. Nor does it appear adjustments were made to account for differences in lot and improvement size as compared to subject. Also not clear was the proximity of the sale properties to subject's location.

On the other hand, Respondent presented sales from 2006 and 2007. As noted above, the assessment time for the 2007 tax year is January 1, 2007. Respondent's two (2) sales that

occurred during 2006 are found to be the most persuasive evidence of value. The properties are proximate to subject and involve like property. Furthermore, adjustments were made for differences in lot size, combined improvement size, and other variables. The adjusted sales prices were \$235,000 and \$266,000, or \$145.15 and \$164.30 per square foot, respectively. Subject was assessed \$194,300 or \$120 per square foot.

The question remaining is whether subject was under-assessed as alleged by Respondent and should be adjusted upward. The Assessor did not cross-appeal. Idaho Code Section 63-511. However at the BOE, the Assessor did request subject's value be increased. That request was denied and subject's value remained at \$194,300, as currently assessed. If Respondent felt subject was under-valued, the Assessor should have filed an appeal with this Board toward seeking an increase in the assessment. Under the circumstances attendant to this alleged under-assessment, the Board will not allow Respondent to effectively appeal, nor will it raise the valuation on its own authority.

Considering all the evidence submitted in this matter, the Board finds subject was not over-valued or under-valued and the decision of the Ada County Board of Equalization will be affirmed.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Ada County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

MAILED February 22, 2008